

**Statement of Rep. Tom Davis
Ranking Member
Committee on Oversight and Government Reform**

“Iraqi Reconstruction: Reliance on Private Military Contractors and Status Report”

February 7, 2007

Good morning. The Committee once again meets to examine the challenges of managing contractors in Iraq. Since 2004, the Committee has been engaged in continuous and vigorous oversight of contracting activities in the war zone. That oversight involved five full committee hearings, fourteen subcommittee sessions, numerous briefings from the agencies involved, and review of thousands of documents the Committee obtained from key federal agencies. Those efforts focused on contracts for logistical support of U.S. military operations and for reconstruction efforts.

Throughout this review, it has been my goal to move beyond the charged rhetoric and easy generalities that swirl around this topic and get to the underlying realities of acquisitions in Iraq. The truth is gritty enough. No one needs to embellish or exaggerate it. Still, some prefer to oversimplify, distort and prejudge the outcome of complex contracting processes to fit the pre-ordained conclusion that nothing goes right in Iraq. I would rather pursue a more constructive mode of oversight that looks beyond tomorrow’s headlines to make a lasting difference.

Some of today’s testimony will focus on a brutal incident in 2004 in which four civilian security personnel retained by Blackwater USA, a security contractor, were ambushed and killed in Fallujah. Our hearts go out to the families of those four men.

Committee Members should also keep in mind that liability for the Fallujah incident is the subject of pending civil litigation. In view of the court actions, I hope longstanding Committee policy still applies: This is not the forum to prosecute private lawsuits, or the place to exploit a tragic event for political purposes.

A separate focus of this hearing is on management and oversight of private security agreements, specifically the allegation that “tiering” of personnel charges by layers of security subcontractors exorbitantly inflated the price paid by the government under cost-plus agreements. Tiering could be pernicious if each party was free to mark-up their invoices and

pass them on. But so far we've found that subcontractors had fixed-price contracts with the DOD prime contractor, KBR, a former Halliburton subsidiary. The subcontractors could not pass on costs beyond the fixed unit prices in their contracts. So in those cases at least, the alleged profiteering shouldn't be possible. There's no legal way to profit from the tiering.

Even so, there remains the question of whether KBR may have acted improperly by allowing its subcontractors to use any type of security services at all, or for not knowing whether third and fourth tier subs included any security costs in their competitively bid, fixed price contract costs. The prime contract includes a generic prohibition against employees carrying weapons without special permission. Whether this prohibition can be stretched into a specific ban on even implicit security charges by remote subcontractors operating in a war zone will likely be the subject of intense discussion between the Army and KBR.

Make no mistake: there are still too many problems with contracting in Iraq. Just look again at the mess made of the Baghdad Police College, with raw sewage surging through classrooms. More recently, we heard about unauthorized VIP trailers and Olympic-sized swimming pools paid for with US tax dollars.

With that in mind, I look forward to exploring solutions to the constant security and logistical challenges that make contract oversight in a war zone so challenging. How do we get the right number of acquisition professionals and auditors, with the right skills, to the operational theater in time to prevent, not just chase, costly mistakes?

In previous hearings, we heard that emergency, short-term contracting gave way to longer "contingency" agreements. Then many sustainment contracts were entered into using full and open competition. The process needs to mature and stabilize further. We're looking for slope to the acquisition learning curve, evidence that lessons learned are being applied.